



U.S. CONSUMER PRODUCT SAFETY COMMISSION
Washington, DC 20207

MINUTES OF COMMISSION MEETING
October 30, 2001
4330 East West Highway
Bethesda, Maryland

Chairman Ann Brown convened the October 30, 2001, meeting of the U. S. Consumer Product Safety Commission in open session. Commissioner Mary Sheila Gall and Commissioner Thomas H. Moore were present.

AGENDA ITEM: Portable Bed Rails – Notice of Proposed Rulemaking

The Commission considered a staff recommendation to instruct the Office of General Counsel to prepare a notice of proposed rulemaking addressing a risk of injury or death associated with certain portable bed rails. The Commission was briefed on this matter by the staff at the Commission meeting of October 15, 2001. (Ref: staff briefing package dated October 1, 2001.)

On motion of Chairman Brown, the Commission voted unanimously (3-0) to instruct the Office of the General Counsel to prepare a Federal Register Notice of Proposed Rulemaking to seek public comment on whether to promulgate the draft staff standard as a mandatory standard to address a risk of injury or death associated with certain portable bed rails, subject to revisions still to be made and decided upon by the Commissioners. The Federal Register notice will be sent around by ballot to accomplish revisions Commissioners desire to make and to give time for staff to make technical changes as needed.

On motion of Commissioner Gall, the Commission voted unanimously (3-0) to direct the staff to develop an information and education (I&E) campaign designed to inform caregivers about the hazards associated with placing children less than two years old on adult-sized beds. The I&E campaign should emphasize the hazard of entrapment between walls and mattresses in adult-sized beds. Staff should provide the Commission with an initial report on this campaign within one month of this meeting.

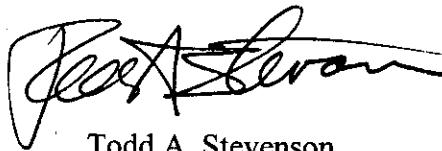
Chairman Brown, Commissioner Gall and Commissioner Moore filed separate statements concerning the portable bed rail matter, copies attached.

Closed to the Public

The Commission considered issues related to enforcement matter OS#4312.

There being no further business on the agenda, Chairman Brown adjourned the meeting.

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson". The signature is stylized with a large initial "T" and a long horizontal stroke extending to the right.

Todd A. Stevenson
Acting Secretary to the Commission

Attachments



THE CHAIRMAN

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

**The Honorable Ann Brown, Chairman
Vote in Favor of Notice of Proposed Rulemaking
To Address Risks Posed by Certain Portable Bed Rails**

October 30, 2001

Today, I voted in favor of a Notice of Proposed Rulemaking to address the risk of injury and death to children posed by certain portable bed rails.

Since 1990, fourteen deaths have occurred with portable bed rails. Twelve of the deaths were caused by entrapment between the bed rail and part of the bed. Eleven of the fourteen fatalities occurred to children under two years of age. In a majority of these cases, a bed rail was away from the bed, creating a small gap a child could fall into and strangle or suffocate.

This is a safety device that should not have the capacity to kill a child.

A little over a year ago, the Commission voted unanimously to publish an Advance Notice of Proposed Rulemaking to initiate rulemaking to address the hazard associated with portable bed rails. We acted because of industry's inaction. Without success, our technical experts tried to get the industry to develop new designs for portable bed rails that would reduce the deaths and injuries caused by the current designs.

Since the Commission approved and published the ANPR, the staff has worked very hard to develop a draft standard. At a meeting held last week, the ASTM Portable Subcommittee for Portable Bed Rails voted to send the draft standard out for ballot. However, there was much debate and criticism of the draft standard at the meeting, and the staff is convinced that it will ultimately be rejected by the industry.

Sometimes the government can work with industry to move forward voluntarily with creative and innovative designs to prevent injuries and death. We certainly worked successfully with industry to produce effective results with baby walkers. We also did it with the escalator industry, with their voluntary efforts to improve designs of escalators.

Voluntary action is the preferred way.

But here, another year has passed, and there is still no voluntary standard to adequately address this hazard. This is why I voted to approve a draft standard that will ultimately bring bed rails into the 21st century, prevent injuries and save lives.

This is our mission, and it the goal we must pursue.



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**STATEMENT OF THE HONORABLE MARY SHEILA GALL
IN SUPPORT OF ISSUING A NOTICE OF PROPOSED
RULEMAKING ON PORTABLE BED RAILS**

October 30, 2001

Today I voted in support of a Notice of Proposed Rulemaking to establish a standard for portable bed rails that will reduce fatalities and serious injuries to children. Fatalities and serious injuries result when a child aged two years or under becomes entrapped between a portable bed rail and the side of the mattress. While present portable bed rails are labeled that they should not be used for children under two, it is obvious that caregivers are using them for this purpose and that the design needs to minimize the risk of entrapment.

While I am going forward with this Notice of Proposed Rulemaking for portable bed rails, I am just as concerned about the far larger problem of entrapments of children aged two and under between the wall and the mattress of adult sized beds. Between January of 1990 and August 2001 eleven children aged less than two years died from entrapments involving portable bed rails (an average of about one per year). During approximately that same period of time, 224 children aged less than two years died from entrapments between the wall and the mattress (an average of about 20 per year). For that reason, I made a motion for the Commission staff to develop an information and education (I&E) campaign to inform caregivers about the hazards of placing children aged less than two years on adult-sized beds. This I&E campaign should emphasize the hazard of entrapment between walls and mattresses in adult-sized beds. I believe this I&E campaign is even more important than the performance standard for portable bed rails in preventing the tragedy of deaths from entrapment.



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STATEMENT OF THE HONORABLE THOMAS H. MOORE
ON THE NOTICE OF PROPOSED RULEMAKING ON
PORTABLE BED RAILS

October 30, 2001

I am voting today to approve the Notice of Proposed Rulemaking on portable bed rails. Our staff has done an excellent job of devising a draft proposed standard. And the staff's design concept has shown the industry that it is possible to design a bed rail that meets the proposed standard. I encourage industry to continue to work on this issue with our staff through the voluntary standards process, but because there is still so much to be done in that arena, the Commission must push ahead with its own regulatory proposal.

I support Commissioner Gall's direction to the staff to develop an information and education campaign on the hazards of putting small children to sleep on adult beds. Both bed rail and adult bed deaths of children are tragedies that often happen when parents are trying to provide a safe place for their children to sleep when visiting grandparents or friends who do not have a crib. Because children are not supervised when they are sleeping, we need to do what we can, both from a regulatory and from an educational standpoint, to ensure that caregivers have a safe sleeping environment for their young children.